



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

**[EPA-R05-OAR-2012-0464; FRL-9909-50-Region-5]**

**Approval and Promulgation of Air Quality Implementation Plans;  
Wisconsin; Redesignation of the Milwaukee-Racine 2006 24-Hour  
Fine Particle Nonattainment Area to Attainment**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving Wisconsin's request to redesignate the Milwaukee-Racine, Wisconsin nonattainment area (Milwaukee, Racine and Waukesha Counties) to attainment for the 2006 24-hour National Ambient Air Quality Standard (NAAQS or standard) for fine particulate matter (PM<sub>2.5</sub>) because the request meets the statutory requirements for redesignation under the Clean Air Act (CAA). The Wisconsin Department of Natural Resources (WDNR) submitted this request to EPA on June 8, 2012, and supplemented it on May 30, 2013. EPA's approval involves several related actions. EPA is making a determination that the Milwaukee-Racine area has attained the 2006 24-hour PM<sub>2.5</sub> standard. EPA is approving, as a revision to the Wisconsin state implementation plan (SIP), the state's plan for maintaining the 2006 24-hour PM<sub>2.5</sub> NAAQS through 2025 in the area. EPA is also approving the comprehensive

emissions inventories submitted by WDNR for Nitrogen Oxides (NO<sub>x</sub>), Sulfur Dioxide (SO<sub>2</sub>), primary PM<sub>2.5</sub>, Volatile Organic Compounds (VOC), and ammonia as meeting the requirements of the CAA. Finally, EPA finds adequate and is approving Wisconsin's direct PM<sub>2.5</sub>, SO<sub>2</sub>, NO<sub>x</sub> and VOC Motor Vehicle Emission Budgets (MVEBs) for 2020 and 2025 for the Milwaukee-Racine area.

**DATES:** This final rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2012-0464. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that

you telephone Gilberto Alvarez, Environmental Scientist, at (312) 886-6143 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Gilberto Alvarez, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6143, [alvarez.gilberto@epa.gov](mailto:alvarez.gilberto@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is the Background for the Actions?
- II. What Actions is EPA Taking?
- III. What is EPA's Response to Comments?
- IV. Why is EPA Taking These Actions?
- V. Final Action
- VI. Statutory and Executive Order Reviews.

**I. What is the Background for the Actions?**

On June 8, 2012, WDNR submitted its request to redesignate the Milwaukee-Racine, Wisconsin nonattainment area (Milwaukee, Racine and Waukesha Counties) to attainment for the 2006 24-hour PM<sub>2.5</sub> NAAQS, and for EPA approval of the SIP revision containing an emissions inventory and a maintenance plan for the area.

WDNR supplemented its submission on May 30, 2013. On February

18, 2014, EPA published a proposed rule (79 FR 9134) making a determination that the Milwaukee-Racine area is attaining the 2006 24-hour PM<sub>2.5</sub> standard and that the area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA.

## **II. What Actions is EPA Taking?**

EPA has determined that the Milwaukee-Racine area has attained and continues to attain the 2006 24-hour PM<sub>2.5</sub> standard, that the area has attained this standard by the applicable attainment date, and that the area meets the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA proposed this determination based on monitoring data showing attainment of the standard for the 2008-2010, 2009-2011, 2010-2012 and 2013 time periods. Monitoring data for 2013 show that the area continues to attain the standard. Because the area continues to attain the standard and meets all other requirements for redesignation under CAA section 107(d)(3)(E), EPA is approving the request from Wisconsin to change the legal designation of the Milwaukee-Racine area from nonattainment to attainment for the 2006 24-hour PM<sub>2.5</sub> NAAQS.

EPA is taking several actions related to Wisconsin's PM<sub>2.5</sub> redesignation request, as discussed below.

EPA is approving, pursuant to CAA section 175A, Wisconsin's

2006 24-hour PM<sub>2.5</sub> maintenance plan for the Milwaukee-Racine area as a revision to the Wisconsin SIP (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to keep the Milwaukee-Racine area in attainment of the 2006 24-hour PM<sub>2.5</sub> NAAQS through 2025.

EPA is approving, pursuant to CAA section 172(c)(3), both the 2006 emission inventories for primary PM<sub>2.5</sub>,<sup>1</sup> NO<sub>x</sub>, VOC and SO<sub>2</sub>,<sup>2</sup> and the 2007 emission inventory for ammonia. These emission inventories satisfy the requirement in section 172(c)(3) of the CAA for a comprehensive, current emission inventory.

Finally, for transportation conformity purposes EPA finds adequate and is approving Wisconsin's direct PM<sub>2.5</sub>, SO<sub>2</sub>, NO<sub>x</sub> and VOC MVEBs for 2020 and 2025 for the Milwaukee-Racine area.

### **III. What is EPA's Response to Comments?**

EPA received no adverse comments on the February 18, 2014, proposal. EPA received four comments in support of the February 18, 2014, proposal from: 1) Harold Pederson, a private citizen, 2) the WDNR, 3) Eric Bott, with the Wisconsin Manufacturers & Commerce organization and 4) five members of the United States Congressional delegation from Wisconsin.

---

<sup>1</sup> Fine particulates directly emitted by sources and not formed in a secondary manner through chemical reactions or other processes in the atmosphere.

<sup>2</sup> NO<sub>x</sub> and SO<sub>2</sub> are precursors for fine particulates through chemical reactions and other related processes in the atmosphere.

In addition, EPA would like to correct two of the 98<sup>th</sup> Percentile values within Table 1 on page 9136 of the proposed rule (79 FR 9134). The value (in micrograms per cubic meter) for 2013 for monitor number 550790026 which is currently listed as 19.0 should be changed to 21.2. The value for 2013 for monitor number 550790099 which is currently 19.7 should be changed to 20.5. The original values were entered incorrectly due to a calculation error. EPA notes that both of these corrected values are still below the NAAQS and do not impact the overall outcome of the redesignation.

#### **IV. Why is EPA Taking These Actions?**

EPA has determined that the Milwaukee-Racine area has attained and continues to attain the 2006 24-hour PM<sub>2.5</sub> NAAQS and that the area has attained this standard by its applicable attainment date. EPA has also determined that all other criteria have been met for the redesignation of the Milwaukee-Racine area from nonattainment to attainment of the 2006 24-hour PM<sub>2.5</sub> NAAQS and for approval of Wisconsin's maintenance plan for the area. See CAA sections 107(d)(3)(E) and 175A. The detailed rationale for EPA's findings and actions is set forth in the proposed rulemaking of February 18, 2014 (79 FR 9134), and in this final rulemaking.

#### **V. Final Action.**

EPA is making a determination that the Milwaukee-Racine area has attained the 2006 24-hour  $PM_{2.5}$  standard by its attainment date and that the area continues to attain the standard. EPA has determined that the area has met the requirements for redesignation under section 107(d)(3)(E) and 175A of the CAA. EPA is thus approving the request from Wisconsin to change the legal designation of the Milwaukee-Racine area from nonattainment to attainment for the 2006 24-hour  $PM_{2.5}$  NAAQS. EPA is also approving Wisconsin's  $PM_{2.5}$  maintenance plan for the Milwaukee-Racine area as a revision to the Wisconsin SIP, because the plan meets the requirements of section 175A of the CAA. EPA is approving the comprehensive emissions inventories submitted by WDNR for  $NO_x$ ,  $SO_2$ , primary  $PM_{2.5}$ , VOC, and ammonia as meeting the requirements of the CAA. Finally, EPA finds adequate and is approving Wisconsin's direct  $PM_{2.5}$ ,  $SO_2$ ,  $NO_x$  and VOC MVEBs for 2020 and 2025 for the Milwaukee-Racine area.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for these actions to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this

action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction," and section 553(d)(3) which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule relieves the state of planning requirements for the Milwaukee-Racine 24-hour PM<sub>2.5</sub> nonattainment area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for these actions to become effective on the date of publication of these actions.

## **VI. Statutory and Executive Order Reviews.**

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A



redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these actions merely do not impose additional requirements beyond those imposed by state law and the CAA. For that reason, these actions:

- are not "significant regulatory actions" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because a determination of attainment is an action that

affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of particulate matter national ambient air quality standards in tribal lands.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. These actions are not "major rules" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final

rule does not affect the finality of these actions for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. These actions may not be challenged later in proceedings to enforce their requirements. (See section 307(b)(2))

**List of Subjects**

**40 CFR Part 52**

Environmental protection, Air pollution control,  
Incorporation by reference, Intergovernmental relations,  
Particulate matter.

**40 CFR Part 81**

Environmental protection, Air pollution control, National  
parks, Wilderness areas.

Dated: April 4, 2014.

Susan Hedman,  
Regional Administrator, Region 5.

40 CFR parts 52 and 81 are amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. Section 52.2584 is amended by adding paragraphs (d) and (e) to read as follows:

**§52.2584 Control strategy; Particulate matter.**

\* \* \* \* \*

(d) Approval - On [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], EPA approved the 2006 24-Hour PM<sub>2.5</sub> maintenance plan for the Milwaukee-Racine nonattainment area (Milwaukee, Racine and Waukesha Counties), as submitted on June 8, 2012. The maintenance plan establishes 2020 motor vehicle emissions budgets for the Milwaukee-Racine area of 2.33 tons per winter day 1 (tpwd) and 2.16 tpwd direct PM<sub>2.5</sub> and 32.62 tpwd and 28.69 tpwd NOX for the years 2020 and 2025, respectively.

(e) Approval - On [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], EPA approved the 2006 24-hour PM<sub>2.5</sub> comprehensive emissions inventories for the Milwaukee-Racine area (Milwaukee, Racine and Waukesha Counties). Wisconsin's 2006 NO<sub>x</sub>, directly emitted PM<sub>2.5</sub>, SO<sub>2</sub>, VOC, as well as the 2007 supplemental ammonia emissions inventory satisfies the emission inventory

requirements of section 172(c)(3) of the Clean Air Act for the Milwaukee-Racine area.

**PART 81--DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

4. Section 81.350 is amended by revising the entry for Milwaukee-Racine, WI in the table entitled "Wisconsin-PM<sub>2.5</sub>[24-Hour NAAQS]" to read as follows:

**§81.350 Wisconsin.**

\* \* \* \* \*

Wisconsin-PM<sub>2.5</sub>[24-Hour NAAQS]

Designated Area	Designation for the 1997 NAAQS <sup>a</sup>		Designation for the 2006 NAAQS <sup>a</sup>	
	Date <sup>1</sup>	Type	Date <sup>2</sup>	Type
Milwaukee-Racine, WI: Milwaukee County Racine County Waukesha County		Unclassifiable/ Attainment	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]	Attainment
* * * * *				

<sup>a</sup> Includes Indian Country located in each county or area, except as otherwise specified.

<sup>1</sup> This date is 90 days after January 5, 2005, unless otherwise noted.

<sup>2</sup> This date is 30 days after November 13, 2009, unless otherwise noted.

\* \* \* \* \*